

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
455 Golden Gate Avenue, Tenth Floor
San Francisco, CA 94102
(415) 703-5050



September 23, 1999

Adela Blades
Dist. Labor Compliance Officer
Department of Transportation
P.O. Box 85406
San Diego, CA 92186-5406

RE: Public Works Case #99-012
Caltrans, San Diego Border Patrol and California Highway
Patrol Facility
Installation of Fencing, National Fence

Dear Ms. Blades:

This constitutes the determination of the Director of Industrial Relations regarding coverage of the above-referenced project under the California prevailing wage laws, and is made pursuant Title 8, California Code of Regulations section 16001(a). Based upon my review of the documents submitted, an analysis of the relevant facts as presented, and information supplied in follow-up telephone conversations, I have determined that the installation of temporary and permanent fencing in this case is a public work which requires the payment of prevailing wages.

Labor Code section 1720(a) defines public works to mean "Construction, alteration, demolition, or repair work done under contract and paid for in whole or in part out of public funds..." Under Labor Code section 1772, workers "employed by contractors or subcontractors in the execution of any contract for public work are deemed to be employed upon public work."

According to the information provided in your request letter of January 26, 1999, the work performed involves erecting a temporary fence around the Border Patrol and California Highway Patrol facility reconstruction project. Posts will be placed three feet into the ground and temporary CL6 fencing will be placed around the posts. It will then be dismantled, erected again temporarily, and then dismantled again. The third time it will be erected as a permanent fence using concrete footings to hold the metal posts.

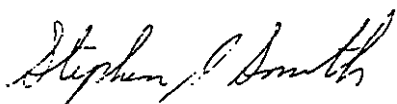
The fencing installation is construction done under contract and paid for with public funds. As such, it is a public work under section 1720(a). In addition, the fencing work is part of the

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larger public works facility reconstruction project. Therefore, under Labor Code section 1772, the workers employed by National Fence are deemed to be employed upon a public work and must be paid prevailing wages.

I hope this determination satisfactorily answers your inquiry.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephen J. Smith".

Stephen J. Smith
Director

cc: Daniel M. Curtin, Chief Deputy Director and Acting Chief, DLSR
Marcy Vacura Saunders, Labor Commissioner
Henry P. Nunn, III, Chief, DAS
Vanessa L. Holton, Assistant Chief Counsel